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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/675,380

09/30/2003

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14763US02

6855

23446 7590 10/01/2008  
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EXAMINER

AHMED, SALMAN

ART UNIT

PAPER NUMBER

2619

MAIL DATE

DELIVERY MODE

10/01/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/675,380	<b>Applicant(s)</b> KARAOGUZ ET AL.	
	<b>Examiner</b> SALMAN AHMED	<b>Art Unit</b> 2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 6/30/2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

Claims 1-31 are pending.

Claims 1-31 are rejected.

***Claim Rejections - 35 USC § 112***

1. Claims 1-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims 1, 11, and 21, the newly added limitation "wherein each network connection on the first communication path has a corresponding network connection on the second communication path" is not disclosed by the original specification.

***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-31 rejected under 35 U.S.C. 102(e) as being anticipated by Doi et al. (US6970919, hereinafter Doi).

Regarding claim 1, Doi et al. teaches a method and system for network management (see column 2 line 21-31) comprising: establishing a second

communication path (see col. 15 line 37 - 65 edge 1 and edge 7 via nodes F, I, G, and J and figure 26) that is independent of a first communication path (see col. 14 line 45 - col. 15 line 36 edge 1 and edge 7 via node A, node D and node G and node J and figure 25; this is an example/scenario disclosed by Doi, which the system has the capability of canceling of a route selection and it is inherent that just like in figures 25 and 26: first path (edge1-A-D-G-J-edge7), second path (edge1-A-F-I-G-J-edge7) the system is capable of canceling route as in figure 26 where node D is canceled and rerouted the traffic through nodes F, I, and G. It is inherent for the system to reroute the path in a larger scale such that first and second path would be independent to each other based on the canceling capability) that couples at least two end points via at least a first broadband network (see figure 25 and 26), wherein each network connection on the first communication path has a corresponding network connection on the second communication path (see figures 25 and 26 and col. 15 lines 37-46 which a scenario is provide where each node on the first path is connected to multiple node that allows the implementation of route cancellation and to reroute traffic through second path); and transferring information that would be normally transferred over the first communication path between the at least two endpoints via the established second communication path (see column 15 line 60-65 and figure 26 from edge 1 (1) and the edge (7) via the link (1), the node A, the link (a1), the node F, the virtual link, the node G, the link (a10), the node J, and the link (j)).

Regarding claim 2, Doi et al. teaches further comprising provisioning the established second communication path for handling communication functions (see column 4 line 29-34).

Regarding claim 3, Doi et al. teaches provisioned communication functions further comprises at least one of operations administration maintenance and provisioning (OAM&P), roaming, user authentication (see column 12 line 44-49), media transfer(see column 4 line 29-34), caching, storage management (see column 4 line 5) and addressing management (see column line 24-33).

Regarding claim 4, Doi et al. teaches further comprising temporarily storing the information during the transferring of the information between the at least two endpoints via the established second communication path (see column 4 line 24-28).

Regarding claim 5, Doi et al. teaches the first communication path is a physical communication path (see column 15 line 13-18 and figure 25).

Regarding claim 6, Doi et al. teaches the second communication path is a logical communication path (see column 15 line 60-65 and figure 26 from edge 1 (1) and the edge (7) via the link (1), the node A, the link (al), the node F, the virtual link, the node G, the link (al0), the node J, and the link (j)).

Regarding claim 7, Doi et al. teaches the second communication path is at least one of a circuit switched connection and a packet switched connection (see column 4 line 66 PBX switches connected via ATM switches).

Regarding claim 8, Doi et al. teaches the at least two endpoints comprises a first source endpoint and at least a first destination endpoint (see figure 25 edge 1 and edge 7 and column 15 line 1-36).

Regarding claim 9, Doi et al. teaches the at least two endpoints is at least one of media processing systems, media peripherals (see column 5 line 3), personal computers, third (3rd) party media providers (see column 4 line 5-6 and figure 1 box 3-

1, 3-2, and 3-3), third (3rd) party storage vendors (see figure 1 box 2) and channel information servers (see figure 2 box 13 VOD service).

Regarding claim 10, Doi et al. teaches the second and the first communication path comprises at least one of a wired (see column 4 line 17 links) and a wireless communication link.

Regarding claims 11-20, Doi et al. teaches service-management server (see column 5 line 11 and figure 4 box 1 it is inherent that server is executed by a set of instruction; and column 13 line 10-22 and 53-67 and column 14 line 4-13 teaches cross-connection definition and service definition file) and disclose all the limitations as discussed in the rejection of claims 1-10 and are therefore apparatus claims 11-20 are rejected using the same rationales.

Regarding claims 21-31, Doi et al. teaches service-management server (see column 5 line 11 and figure 4 box 1 it is inherent that server includes processor; and peripheral computer see figure 13 box 75-77 to include processor) and disclose all the limitations as discussed in the rejection of claims 1-10 and are therefore apparatus claims 21-31 are rejected using the same rationales.

### ***Response to Arguments***

3. Applicant's arguments see pages 11-12 of the Remarks section, filed 6/30/2008, with respect to the 35 USC 112 rejections of the claims have been fully considered and are not persuasive.

Applicant argues that the limitations "each network connection on the first communication path has a corresponding network connection on the second

communication path” is disclosed by the original specification. In support, Applicant points out figure 2 and paragraphs 41-54, specifically paragraph 41 which states: *“In this regard, the physical network connections between the various elements of the media exchange network 100 are shown as solid lines and the additional logical level communication pathways provided by the common network provisioning protocol are illustrated as corresponding dashed lines having double-ended arrows”*. Nowhere, in this paragraph or any other, does it state that, “each network connection on the first communication path has a corresponding network connection on the second communication path”. It can clearly be seen from figure 2 that all network connections having physical and logical connections go through network cloud 107, which may be cable, DSL, satellite or internet (emphasis added). Specifically, paragraph 0034 of specification states: *“The physical connectivity network infrastructures 105, 106, 107 may each comprise any one of a number of physical communication infrastructures including a cable infrastructure such as a cable headend, a digital subscriber line (DSL) infrastructure such as a DSL central office, a satellite infrastructure, an Internet infrastructure, a cellular infrastructure, an optical infrastructure, a dial-up to the network infrastructure, or any combination of these. The physical connectivity network infrastructures 105, 106, 107 may provide access to, for example, home, offices and/or business and may be coupled to other networks such as LANs, WANs, intranets and/or the Internet”*. It can clearly be seen from figure 2, and above description that nowhere in the cited paragraphs or figure, it is shown that both physical and logical connection is maintained while traversing through the physical connectivity network 107 (emphasis added). Further more, packets traversing through internet can take various different

paths to reach its destination. As such, Examiner maintains that, although the drawing of figure 2, shows some network connection having corresponding physical and logical paths, by no means it shows each (i.e. all through) network path have same characteristics; specifically paths getting into the physical connectivity network cloud 107.

Examiner respectfully submits that regarding claims 1, 11, and 21, the newly added limitation "wherein each network connection on the first communication path has a corresponding network connection on the second communication path" is not disclosed by the original specification.

Applicant argues (page 13, first paragraph) that Doi does not disclose or suggest that a network connection on the "first path" has a corresponding network connection on the "second path", at least based on the facts that the "first path" and the "second path" are the same for these three links; therefore, Doi does not disclose that "each network connection on the first communication path has a corresponding network connection on the second communication path."

However, Examiner respectfully disagrees with the Applicant's assertion. Doi does indeed teach the cited limitation. As mentioned above, it can clearly be seen from figure 2 that all network connections having physical and logical connections go through network cloud 107, which may be cable, DSL, satellite or internet (emphasis added). Specifically, paragraph 0034 of specification states: *"The physical connectivity network infrastructures 105, 106, 107 may each comprise any one of a number of physical communication infrastructures including a cable infrastructure such as a cable headend, a digital subscriber line (DSL) infrastructure such as a DSL central office, a satellite*



*infrastructure, an Internet infrastructure, a cellular infrastructure, an optical infrastructure, a dial-up to the network infrastructure, or any combination of these. The physical connectivity network infrastructures 105, 106, 107 may provide access to, for example, home, offices and/or business and may be coupled to other networks such as LANs, WANs, intranets and/or the Internet".* It can clearly be seen from figure 2, and above description that, nowhere in the cited paragraphs or figure, it is shown that both physical and logical connection is maintained while traversing through the physical connectivity network 107 (emphasis added). Further more, packets traversing through internet can take various different paths to reach its destination. As such, Examiner maintains that, although the drawing of figure 2, shows some network connection having corresponding physical and logical paths, by no means it shows each (i.e. all through) network path have same characteristics; specifically for paths getting into the physical connectivity network cloud 107.

As such current claim language limitation is indeed satisfied by the cited prior art. Specifically, Doi teaches each network connection on the first communication path has a corresponding network connection on the second communication path (see figures 25 and 26 and col. 15 lines 37-46 which a scenario is provide where each node on the first path is connected to multiple node that allows the implementation of route cancellation and to reroute traffic through second path); and transferring information that would be normally transferred over the first communication path between the at least two endpoints via the established second communication path (see column 15 line 60-65 and figure 26 from edge 1 (1) and the edge (7) via the link (1), the node A, the link (a1), the node F, the virtual link, the node G, the link (a10), the node J, and the link (j)).

Applicant argues (page 14 paragraph 2) that neither Doi itself nor the Office Action "make[s] clear that the missing descriptive matter," said to be inherent "is necessarily present in" Doi. Applicant makes such argument without specifically showing which claims or which limitations are in question.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Further Examiner respectfully submits that, Examiner finds no mention of inherency in claim 9 rejection as Applicant alleges (see page 14, last paragraph).

Applicant argues (pages 16 and 17) that each network connection on the first communication path [edge 1 - A - D - G - J - edge 7] does not have a corresponding network connection on the second communication path [edge 1 -A- F-I-G-J-edge7]. However, Examiner respectfully disagrees with the Applicant's assertion. Examiner has showed above that it can clearly be seen from figure 2 that all network connections having physical and logical connections go through network cloud 107, which may be cable, DSL, satellite or internet (emphasis added). Specifically, paragraph 0034 of specification states: *"The physical connectivity network infrastructures 105, 106, 107 may each comprise any one of a number of physical*

*communication infrastructures including a cable infrastructure such as a cable headend, a digital subscriber line (DSL) infrastructure such as a DSL central office, a satellite infrastructure, an Internet infrastructure, a cellular infrastructure, an optical infrastructure, a dial-up to the network infrastructure, or any combination of these. The physical connectivity network infrastructures 105, 106, 107 may provide access to, for example, home, offices and/or business and may be coupled to other networks such as LANs, WANs, intranets and/or the Internet".* It can clearly be seen from figure 2, and above description that, nowhere in the cited paragraphs or figure, it is shown that both physical and logical connection is maintained while traversing through the physical connectivity network 107 (emphasis added). Further more, packets traversing through internet can take various different paths to reach its destination. As such, Examiner maintains that, although the drawing of figure 2, shows some network connection having corresponding physical and logical paths, by no means it shows each (i.e. all through) network path have same characteristics; specifically for paths getting into the physical connectivity network cloud 107.

Therefore, Examiner submits that, even if we disregard the new matter issue for the sake of argument, Applicants physical and logical communication paths are not "independent" of each other, as they traverse the same nodes prior to entering physical connectivity network cloud 107 (see figure 2). That is, nowhere, it shows that Applicant's physical connection is traversing through a different network element then its corresponding logical connection. As such, they are not independent of each other, when it comes to traversing network elements. It can also be seen that physical path

and its corresponding logical path is absent while traversing physical connectivity network cloud 107 (see figure 2).

Claims 11 and 21 have the similar issues as claim 1.

Dependent claims 2-10, 12-30 and 22-31 are not patentable for the same reason.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SALMAN AHMED whose telephone number is (571)272-8307. The examiner can normally be reached on 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad can be reached on (571) 272-7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. A./

Examiner, Art Unit 2619

/Edan Orgad/

Supervisory Patent Examiner, Art Unit 2619